

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte* FRANCK LE and HAIHONG ZHENG

---

Appeal 2006-3371  
Application 09/834,918  
Technology Center 2100

---

Decided: March 2, 2007

---

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO,  
and JOSEPH L. DIXON, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1 to 37. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants have invented a method and apparatus for classifying Internet Protocol (IP) data sent from a source apparatus to a destination apparatus in a packet switched network. The IP data includes a header that

comprises a list of at least one intermediate node to be visited on the way to the destination node. The IP data visits a first node and the at least one intermediate node as it travels from the source apparatus to the destination apparatus. The IP data is classified at the first node based on an entry in the header.

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method of classifying Internet Protocol (IP) data to be sent from a source apparatus to a destination apparatus in a packet switched network, said method comprising:

receiving said data at a first node, the data comprising a header comprising a list of at least one intermediate node to be visited on a way to the destination apparatus; and

classifying said data at said first node based on an entry in said header.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Narad	US 6,157,955	Dec. 5, 2000
Jorgensen	US 6,452,915 B1	Sep. 17, 2002 (filed Jul. 9, 1999)
Walrand	US 6,674,760 B1	Jan. 6, 2004 (filed Sep. 28, 1999)

The Examiner rejected claims 1, 8 to 13, 20 to 25 and 33 to 37 under 35 U.S.C. § 102(e) based upon the teachings of Walrand, the Examiner rejected claims 2 to 4, 14 to 16 and 26 to 29 under 35 U.S.C. § 103(a) based upon the teachings of Walrand and Jorgensen, and the Examiner rejected claims 5 to 7, 17 to 19 and 30 to 32 under 35 U.S.C. § 103(a) based upon the teachings of Walrand, Jorgensen and Narad.

Appellants contend that Walrand neither teaches nor would have suggested an IP data header that comprises a list of at least one intermediate node to be visited on the way to the destination apparatus (Br. 7).

We reverse.

### ISSUE

Does Walrand describe an IP data header that identifies at least one intermediate node that is visited on the way to the destination node?

### FINDINGS OF FACT

The IP data header disclosed and claimed by Appellants includes a list of at least one intermediate node to be visited on the way to the destination apparatus.

Walrand describes a method of classifying IP data that is sent from a source apparatus to a destination apparatus in a packet switched network (Fig. 2, Col. 2, ll. 32-36). When an IP data packet is received at a node, the data is classified based on an entry in the header (Col. 2, ll. 32-46). While at the node, the IP data packet consults a routing table to determine the next node to receive the packet in route to the address of the destination apparatus (Col. 3, ll. 54-58).

### PRINCIPLE OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1946 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

### ANALYSIS

Although the IP data packet in Walrand visits at least one intermediate node, the header in the IP data packet only includes a source address, a destination address and class of service identifier. Appellants correctly argue that the IP data packet in Walrand consults a routing table at the node, and not “a list of at least one intermediate node” in the header, to determine the route of the IP data packet to the address of the destination apparatus.

### CONCLUSION OF LAW

Anticipation has not been established by the Examiner because Walrand lacks intermediate node data in the IP header.

The obviousness of the claimed subject matter has not been demonstrated by the Examiner because the teachings of the secondary references to Jorgensen and Narad fail to cure the noted shortcoming in the teachings of Walrand.

### DECISION

The anticipation rejection of claims 1, 8 to 13, 20 to 25 and 33 to 37 is reversed. The obviousness rejections of claims 2 to 7, 14 to 19 and 26 to 32 are reversed.

### REVERSED

PGC/ce

SQUIRE, SANDERS & DEMPSEY L.L.P.  
14TH FLOOR  
8000 TOWERS CRESCENT  
TYSONS CORNER VA 22182